

3. If question one is answered in the negative, is the then applicable provision in Chapter VII 48 point 7(a) of the annex to Directive 91/628/EEC to be understood as meaning that the journey time by sea on a regular and direct link between a geographical point of the Community and a geographical point in a third country by means of vehicles loaded on to vessels without unloading of the animals is immaterial provided that the animals are regularly fed and watered and, in such a case, does a further period of 29 hours of transport by road begin immediately after unloading the lorry at the port of destination?
4. If question three (point 2.3) is answered in the affirmative, is the first indent of Article 5A point 2(d)(ii) of Directive 91/628/EEC to be understood as meaning that the staff in charge of the transport are required to state in the route plan the times at which the animals transported were fed and watered during the ferry journey and that a pre-typed statement indicating that 'during the ferry journey, animals are fed and watered in the evenings and mornings, at midday, and in the evenings and mornings' does not meet the requirements of Directive 91/628/EEC, with the effect in law that the failure to take the measures actually taken to care for the animals leads to a loss of the right to an export refund in so far as the proof required cannot be provided by any other means?

<sup>(1)</sup> OJ 1998 L 82, p. 19.

<sup>(2)</sup> OJ 1991 L 340, p. 17.

**Reference for a preliminary ruling from the Oberverwaltungsgericht Berlin-Brandenburg lodged on 19 May 2006 — Mehmet Soysal, Cengiz Salkim, Ibrahim Savatli v Bundesrepublik Deutschland; Joined party: Bundesagentur für Arbeit**

(Case C-228/06)

(2006/C 190/13)

*Language of the case: German*

#### Referring court

Oberverwaltungsgericht Berlin-Brandenburg

#### Parties to the main proceedings

*Appellant:* Mehmet Soysal, Cengiz Salkim, Ibrahim Savatli

*Respondent:* Bundesrepublik Deutschland (Federal Republic of Germany)

*Joined party:* Bundesagentur für Arbeit (Federal Republic of Germany)

#### Questions referred

1. Is Article 41(1) of the Additional Protocol of 23 November 1970 <sup>(1)</sup> to the Agreement establishing an Association between the European Economic Community and Turkey to be interpreted in such a way that it constitutes a restriction on freedom to provide services if a Turkish national who works in international transport for a Turkish undertaking as a driver of a lorry registered in Germany has to be in possession of a Schengen visa to enter Germany under Paragraph 4(1) and Paragraph 6 of the Aufenthaltsgesetz (German law on residence) of 30 July 2004 and Article 1(1) of Regulation (EC) No 539/2001 <sup>(2)</sup> even though on the date on which the Additional Protocol entered into force he was permitted to enter the Federal Republic of Germany without a visa?
2. If the answer to the first question is in the affirmative, should Article 41(1) of the Additional Protocol be interpreted as meaning that the Turkish nationals mentioned in (1) do not require a visa to enter Germany?

<sup>(1)</sup> JO 1972 L 293, p.4.

<sup>(2)</sup> OJ 2001 L 81, p.1.

**Reference for a preliminary ruling from the Finanzgericht Hamburg (Germany), lodged on 22 May 2006 — Sunshine Deutschland Handelsgesellschaft mbH v Hauptzollamt Kiel**

(Case C-229/06)

(2006/C 190/14)

*Language of the case: German*

#### Referring court

Finanzgericht Hamburg

#### Parties to the main proceedings

*Applicant:* Sunshine Deutschland Handelsgesellschaft mbH

*Defendant:* Hauptzollamt Kiel

**Question referred**

Should shelled pumpkin seeds from pumpkins cultivated as vegetables, which have lost their ability to germinate and are intended for the baking industry, be classified under subheading 1209 91 90 of the Combined Nomenclature (CN) <sup>(1)</sup> or under subheading 1212 99 80 of the CN?

<sup>(1)</sup> Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff — OJ 1987 L 256, p. 1.

customs clearance agent to be held liable for all of the consequences of an incorrect Community transit operation?

- (2) In circumstances such as those set out in Question 1, is Article 11a(2) applicable?
- (3) Is the question of whether the customs authorities have competence to be determined according to the criteria laid down by the second or third indent of Article 215(1) of Regulation No 92/2913/EEC <sup>(2)</sup>?

<sup>(1)</sup> OJ L 107, p. 1.

<sup>(2)</sup> OJ L 253, p. 1.

<sup>(3)</sup> OJ L 302, p. 1.

**Reference for a preliminary ruling from the Corte Suprema Di Cassazione (Italy) of 12 January 2006 — Militzer & Münch GmbH v Ministero delle Finanze**

(Case C-230/06)

(2006/C 190/15)

*Language of the case: Italian*

**Referring court**

Corte Suprema Di Cassazione (Italy)

**Parties to the main proceedings**

*Applicant:* Militzer & Münch GmbH

*Defendant:* Ministero delle Finanze

**Question(s) referred**

- (1) (a) Is Article 11a(1) of Regulation No 87/1062/EEC <sup>(1)</sup>, as amended by Regulation No 93/2454/EEC <sup>(2)</sup>, to be interpreted as meaning that the 11-month time-limit within which the administration of the customs office of departure must communicate the fact that goods moving under the Community transit procedure have not been discharged is applicable in a case where discharge by the customs office of destination is evidenced by forged documents and the forgery is not easily discernible?
- (b) For the purposes of the interpretation of that provision, are the principles set out in the judgments of the Court of Justice in Case C-325/00 and Case C-222/01 applicable?
- (c) In circumstances such as those under consideration, is it contrary to the principle of proportionality for a

**Reference for a preliminary ruling from the Cour du travail de Bruxelles (Belgium) lodged on 22 May 2006 — Office national des pensions v Jonkman**

(Case C-231/06)

(2006/C 190/16)

*Language of the case: French*

**Referring court**

Cour du travail de Bruxelles

**Parties to the main proceedings**

*Applicant:* Office national des pensions

*Defendant:* Émilienne Jonkman

**Questions referred**

1. With regard to the adjustment contributions (Article 4 of the Royal Decree of 25 June 1997 inserting Article 16b(2))

Is Directive 79/7/EEC of 19 December 1978 <sup>(1)</sup> to be interpreted as meaning that it authorises a Member State to adopt rules intended to allow a category of persons of a particular sex, originally discriminated against, to become eligible for the pension scheme applicable to the category of persons of the opposite sex by making retroactive payment (a single payment of a very large sum) of contributions recovery of which would be time-barred under the legislation applicable in that State in the case of the latter category of persons?